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Docket No. 14XZ126397/OEM-0128

## REMARKS / ARGUMENTS

### Status of Claims

Claims 1-3 and 7-58 are pending in the application and stand rejected. Applicant has canceled Claims 10, 14, 19, 29, 38 and 48, and has amended Claims 57 and 58, leaving Claims 1-3 and 7-9, 11-13, 15-18, 20-28, 30-37, 39-47 and 49-58 for consideration upon entry of the present Amendment.

Applicant respectfully submits that the rejections under 35 U.S.C. §112, first paragraph, and 35 U.S.C. §103(a), have been traversed, that no new matter has been entered, and that the application is in condition for allowance.

These amendments and accompanying remarks were not presented earlier because Applicant did not fully appreciate the nature of the Examiner's position until the Applicant was advised in more detail of the position by the final rejection.

The claim amendments presented herein, which Applicant respectfully requests entry thereof, should require only a cursory review by the Examiner as they include only elements presented in earlier examined claims. Accordingly, such amendments should not require further consideration or search.

### Objections to the Claims

Claims 10, 14, 19, 29, 38 and 48 are objected to because of informalities relating to dependency on a canceled claim.

Applicant has canceled Claims 10, 14, 19, 29, 38 and 48, thereby obviating this rejection.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of this objection.

### Rejections Under 35 U.S.C. §112, First Paragraph

Claims 57 and 58 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement.

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The Examiner comments that the term "carrier" is so broad that it is unclear as to what it pertains to. Paper 20051107, page 4.

The Examiner has also commented that "If the claims stated 'A computer program stored on computer-readable medium', the [prior] 35 USC §101 rejection would be withdrawn." Paper 20050726, page 5.

Applicant has amended Claims 57 and 58 to remove the objectionable term "carrier", thereby obviating the present rejection, and to include the phrase "A computer program stored on computer-readable medium", as previously suggested by the Examiner, thereby traversing the prior rejection.

In view of the foregoing, Applicant respectfully submits that the specification complies with the enablement and written description requirements of 35 U.S.C. §112, first paragraph, and therefore respectfully requests reconsideration and withdrawal of this rejection.

#### **Rejections Under 35 U.S.C. §103(a)**

Claims 1-3, 7-44 and 56 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ono et al. (U.S. Patent No. 5,588,097, hereinafter Ono).

Claims 45-55 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ono in view of Gillio (U.S. Patent No. 5,704,791, hereinafter Gillio).

Applicant traverses these rejections for the following reasons.

Applicant respectfully submits that the obviousness rejection based on the Reference(s) is improper as the Reference(s) fail to teach or suggest *each and every element of the instant invention arranged so as to perform as the claimed invention performs*. For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a prima facie case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). The Examiner must meet the burden of establishing that all elements of the invention are taught or suggested in the prior art. MPEP §2143.03.

#### **Regarding Independent Claims 1 and 56**

Claim 1 recites, inter alia,

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"...wherein the means for processing is configured to acquire *at least two points positioned in the 3D model* via the user interface, to deduce the positioning of *an axis defined by the two points in the 3D model*, and to *reorient the 3D model* such that the axis is in a predefined orientation relative to a plane of the means for display; and

wherein the means for processing is configured to orient the 3D model in such a manner that *the axis defined by the two points indicated by the user is parallel to the plane of the means for display.*"

Claim 56 recites, inter alia,

"...positioning *at least two points in the 3D model* by means of the user interface; causing the means for processing to deduce therefrom the position of *an axis defined by the points on the 3D model*; and

causing the means for processing to *reorient the 3D model* such that *the axis lies in a predefined orientation relative to and parallel with a plane of the means for display.*"

Dependent claims inherit all of the limitations of the respective parent claim.

Here, Applicant claims *an axis that is defined by the two points in the 3D model*, and a reorientation of the 3D model *such that the axis defined by the two points in the 3D model is oriented parallel to the plane of the display.*

The Examiner alleges that Ono teaches all of the limitations of the claimed invention with the exception of explicitly disclosing orienting the 3D model parallel to the plane of the means for display. To cure this deficiency, the Examiner alleges that Ono teaches rotating a 3D object around the O-P0 axis at an angle specified by three points, and that it would have been obvious to one of ordinary skill in the art *to set points P2 and P3 to equal P0 in order for the angle of rotation a to equal zero so that the 3D model orients itself with the display.* Paper 20051107, pages 4, 5 and 7.

Applicant respectfully disagrees that Ono teaches or suggests each and every element of the claimed invention *arranged so as to perform as the claimed invention performs.*

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At Col. 3, lines 25-27, Applicant finds Ono to disclose that "*numeral 22 represents a semitransparent spherical surface that is displayed in the figure rotation mode so as to enclose the object 21.*"

At Col. 3, lines 49-50, Applicant finds Ono to disclose "moving a *point P on the spherical surface 22 from P0 to P1...*"

At Col. 3, lines 52-54, Applicant finds Ono to disclose "rotation about *an axis defined by the center O of the spherical surface 22 and the point P0 or P1 on the spherical surface 22...*"

At Col. 3, lines 61-65, Applicant finds Ono to disclose "When point P0 and P1 are the same point *on the spherical surface 22*, the object *rotates about the axis (O-P0)* by the rotation angle  $\alpha$  by specifying P0 and then determining point P2 and P3."

At Col. 4, lines 7-10, Applicant finds Ono to disclose "If the user wants to select a point other than the object center as the fixed point, the user can specify such a point separately. After the determination of the fixed point of the object 21, the semitransparent spherical surface 22 having the *fixed point as its center O...*"

At Col. 5, lines 33-38, Applicant finds Ono to disclose "*a point P2 on the spherical surface 22... indicated by a marker as the rotation start point... another point P3 on the spherical surface 22*, so that the angle P2P1P3 (or P2P0P3, where P0 and P1 are the same point) defines a rotation angle  $\alpha$  about the axis O-P1 (or O-P0, where P0 and P1 are the same point)..."

Here, Applicant finds Ono to teach a fixed point O, points P0 and P1 *on the spherical surface 22 (not on the object 21)* that determine the rotation axis O-P0 where P0 and P1 are the same point, a point P2 *on the spherical surface 22 (not on the object 21)*, and another point P3 *on the spherical surface 22 (not on the object 21)*, where the object is caused to rotate about axis O-P0 by the angle defined by P2P1P3, or by P2P0P3 where P0 and P1 are the same point.

In comparing Ono with the claimed invention, Applicant finds Ono to be deficient in teaching the claimed invention in several respects.

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First, Applicant finds Ono to teach rotation of an object 21 by *selecting points on a spherical surface 22, not by selecting points on the object 21 itself*. Even where fixed point O is selected by selecting a point other than the object center (Col. 4, lines 7-8), the other *points P0, P1, P2 and P3, are still selected by selecting points on spherical surface 22, not by selecting points on the object 21 itself*. Accordingly, Applicant submits that Ono is deficient in teaching the selection of *at least two points positioned in the 3D model*, which is specifically claimed for in the instant invention.

Second, Applicant finds Ono to teach rotation of an object 21 about the axis O-P0 defined by a spherical surface 22, and not a reorientation of the object containing the axis such that the axis of the object has been reoriented to a predefined orientation. Accordingly, Applicant submits that Ono is deficient in teaching the *reorientation of the 3D model* such that *the defined axis (defined by two points on the 3D model) lies in a predefined orientation*, which is specifically claimed for in the instant invention.

Third, Applicant finds Ono to teach rotation of an object 21 about an axis O-P0 defined by a spherical surface 22 according to user input of points such as P1, P2 and P3 on the spherical surface 22, and not a reorientation of the object containing the axis such that the axis of the object has been reoriented parallel with a plane of the display 6. Accordingly, Applicant submits that Ono is deficient in teaching the *reorientation of the 3D model* such that *the axis (defined by two points on the 3D model) lies in a predefined orientation relative to and parallel with a plane of the means for display*, which is specifically claimed for in the instant invention.

In alleging obviousness, the Examiner remarks that "by defining points P2 and P3 equal to P0, the angle of rotation a equals zero, thus orienting the 3D model along the O-P0 axis, i.e. parallel to the plane of the means for display". Paper 20051107, pages 2-3 (emphasis added).

Applicant respectfully disagrees with the Examiner.

Here, the Examiner alleges that by merely defining Ono points P2 and P3 equal to P0, the Ono 3D model somehow automatically becomes oriented parallel to the plane of the means for display. However, nowhere does the Examiner show where such a

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relationship is taught or suggested by Ono, and Applicant finds no such teaching or suggestion in Ono to support this allegation.

In comparing Ono with the claimed invention, Applicant finds Ono to be absent any teaching of a relationship between the plane of the display 6 and an orientation of an object axis O-P0 relative thereto (axis O-P0 is associated with the spherical surface 22, not the 3D model/object 21), and to be especially absent any teaching of a reorientation of an object axis (defined by two points on the 3D model itself) such that the axis is reoriented to lie parallel to the plane of the display.

In alleging obviousness, the Examiner has impermissibly expanded the scope of Ono, which discloses points *on a spherical surface* to control the rotation of an associated object, to allege obviousness over the claimed invention, which claims points *on a 3D model* to define an axis and to reorient the 3D model such that the axis containing those points is parallel to the plane of the display. Applicant submits that the Ono spherical surface 22 is not the same as the Ono object (3D model) 21, as evidenced by description and illustration in Ono. In view of the foregoing, and without more evidentiary support, Applicant submits that the Examiner has failed to meet the burden of establishing a prima facie case of obviousness.

Furthermore, by stating "thus" in the Examiner's reasoning, and without more, Applicant submits that the Examiner merely makes a conclusory statement with no evidentiary support to show where Ono teaches or suggests this conclusion, and respectfully submits that such a conclusory statement is insufficient to establish a prima facie case of obviousness.

Regarding Claims 26-28 and 30-34 More Specifically

In alleging obviousness, the Examiner incorporates the rationale applied to Claim 1 above, and further remarks that O-P0 defines one axis, O-P1 defines another axis, and that "since both points, i.e. P0 and P1 are x, y coordinates, *it can be concluded* that the axis formed with these points, i.e. O-P0 and O-P1, are parallel to the display". Paper 20051107, page 9 (emphasis added).

Applicant respectfully disagrees with the Examiner.

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By stating "it can be concluded" in the Examiner's reasoning, and without more, Applicant submits that the Examiner merely makes a conclusory statement with no evidentiary support to show where Ono teaches or suggests this conclusion, and respectfully submits that such a conclusory statement is insufficient to establish a prima facie case of obviousness.

Applicant finds absolutely no teaching or suggestion in Ono to arrive at the claimed invention that claims "*at least three points positioned in the 3D model by means of the user interface, to deduce two axes therefrom each passing through a pair of the points, and to reorient the 3D model in such a manner that the two axes are substantially parallel to the means for display*", and submits that by failing to show where in Ono such a teaching or suggestion may be found, the Examiner has failed to establish a prima facie case of obviousness.

Regarding Claims 45-55 More Specifically

In alleging obviousness, the Examiner incorporates the rationale applied to Claim 1 above, acknowledges that Ono does not disclose physically orienting an image sensor relative to the final confirmed orientation, and looks to Gillio to cure this deficiency. Paper 20051107, page 10.

Claims 45-55 depend either directly or indirectly from Claim 1, and for at least the reasons set forth above regarding the deficiencies of Ono, Applicant further respectfully submits that Gillio does not cure the deficiencies of Ono with regard to Claim 1, and therefore cannot be combined with Ono to establish a prima facie case of obviousness against Claims 45-55.

In view of the foregoing, Applicant submits that the References fail to teach or suggest each and every element of the claimed invention and are therefore wholly inadequate in their teaching of the claimed invention as a whole, fail to motivate one skilled in the art to do what the patent Applicant has done, fail to offer any reasonable expectation of success in modifying Ono to perform as the claimed invention performs, and disclose a substantially different invention from the claimed invention, and therefore

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cannot properly be used to establish a prima facie case of obviousness. Accordingly, Applicant respectfully requests reconsideration and withdrawal of all rejections under 35 U.S.C. §103(a), which Applicant considers to be traversed.

Applicant has amended the claims for presentation in a better form that more clearly reflects Applicant's invention. The claim amendments should require only a cursory review by the Examiner as they include language presented in earlier examined claims.

In light of the foregoing remarks and amendments, Applicant respectfully submits that the proposed amendments and arguments comply with 37 C.F.R. §1.116 and should therefore be entered, and with their entry that the Examiner's rejections under 35 U.S.C. §112, first paragraph, and 35 U.S.C. §103(a), have been traversed, and that the application is now in condition for allowance. Such action is therefore respectfully requested.



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The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 50-2513.

In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-identified Deposit Account.

Respectfully submitted,

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